

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BISOUS BISOUS LLC,

Plaintiff,

v.

THE CLE GROUP, LLC,
BISOU UPTOWN MANAGER, LLC, and
BISOU LP HOLDINGS, LLC,

Defendants.

Case No. 3:21 CV01614-B

JOINT MOTION TO SUBSTITUTE MEDIATOR

Plaintiff and Defendants [hereinafter, “The Parties”] file this Joint Motion to Substitute Mediator based, in part, on Rule 1 of the Federal Rules of Civil Procedure, which encourages the “just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. The Parties move this Court to substitute the Honorable Jeff Kaplan with Ms. Suzanne Butler, Circuit Mediator for the United States Court of Appeals for the Fifth Circuit, to mediate The Parties’ dispute.

On October 22, 2021, pursuant to Paragraph 6 of the Court’s Scheduling Order of September 17, 2021 (Dkt. 68), The Parties filed their Joint Report Selecting a Mediator in which The Parties selected John DeGroote of DeGroote Partners as their mediator. (Dkt. 77.) On October 25, 2021, this Court “selected **the Honorable Jeff Kaplan** as the parties’ mediator,” (Dkt. 78 at 2), and ordered “the parties to complete the mediation no later than **March 4, 2022**.” *Id.* On October 27, Defendants’ counsel reached out to Judge Kaplan’s Senior Case Manager

and was informed that His Honor charges \$6,390 for mediation. Thereafter, it was learned that Judge Kaplan's earliest date for mediation is not until after January 1, 2022.

Also on October 27, 2021, The Parties attended their initial conference with Suzanne Butler, Circuit Mediator for the United States Court of Appeals for the Fifth Circuit, to discuss mediating Defendants' current appeal of this Court's ruling on Plaintiff's Motion for Preliminary Injunction. Ms. Butler informed The Parties that she—in her capacity as Circuit Mediator for the United States Court of Appeals for the Fifth Circuit—could and would mediate all issues in The Parties' case at no charge to The Parties and as early as December 1, 2021. Ms. Butler has “been a mediator with the Fifth Circuit Mediation Program since May 1999, and ha[s] mediated hundreds of civil appeals. [She] graduated cum laude from Middlebury College in 1980 and from Tulane Law School in 1985. Upon graduation from Tulane, [she] went to work in the housing law unit of the New Orleans Legal Assistance Corp. In 1989 [she] joined the Advocacy Center as a senior attorney; the Advocacy Center is a nonprofit law firm providing legal assistance to persons with disabilities and seniors. [She] worked at the AC until coming to the Fifth Circuit in '99.” Ex. 1.

The Parties have agreed to mediate all issues before Ms. Butler on Friday, December 3, 2021 and will complete and file the Court's Alternative Dispute Resolution Summary Form within ten (10) days after the mediation session is completed. Accordingly, The Parties respectfully request that this Court substitute Ms. Butler as the Court's selected mediator so that The Parties can mediate expeditiously and inexpensively.

Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: November 11, 2021

By: /s/ David B. Conrad

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